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C O N F I D E N T I A L SECTION 01 OF 04 TAIPEI 003394

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SUBJECT: CONSTITUTIONAL REFORM EFFORT SPARKS DEBATE WITHIN
DPP BETWEEN MODERATES AND INDEPENDENCE ACTIVISTS

REF: TAIPEI 03310

Classified By: AIT Acting Director Robert S. Wang,
Reasons: 1.4 (b/d)

11. (C) Summary: Divisions within the ruling DPP between moderates and independence activists are complicating the process of producing an acceptable constitutional revision proposal for the party's Central Executive Committee (CEC) to consider on October 4. Originally focusing on two constitutional revision drafts, one presidential and one parliamentary, the DPP is now also exploring drafts that to varying degrees touch on sensitive sovereignty issues in response to objections raised by independence fundamentalists. President Chen, whose comments on constitutional revision on September 24 further energized the fundamentalists, only touched briefly on the topic in speeches on September 28 and September 30 (Septel). DPP Chairman Yu Shyi-kun has called a meeting of party, government, and legislative leaders on October 2 to work out a compromise before proposed revisions are submitted to the CEC. End Summary.

Early Drafts Focus on Government Restructuring

12. (C) The DPP team responsible for drafting the party's proposal for a revised constitution originally prepared two versions, one for a parliamentary system of government and the other for a presidential system. On September 20, National Taiwan University Professor Chen Ming-tong introduced these two alternative drafts to the DPP Central Standing Committee and explained that the sovereignty provisions could not be touched, because of their sensitivity and President Chen's previous commitments. The proposals instead offered alterations to various articles of the existing constitution aimed at "rationalizing" Taiwan's current government structure, seen by critics as a relic of the age of authoritarian one-party rule. When later presented at the September 24 DPP forum on Constitutional revision, neither draft contained significant changes to the sovereignty provisions of the Constitution (Articles 1-6).

13. (C) At the September 20 CSC meeting, Chen Ming-tong and DPP International Affairs Director Winston Dang separately told AIT, several Deep Green independence fundamentalists emotionally objected to the absence of changes to the Constitution's sovereignty provisions. Lawyer Chen Chi-sen, chair of the DPP's Arbitration Committee, led the revolt, joined by CSC members Truong Chai (LY member) and Yeh Chu-lan (acting mayor of Kaohsiung), according to the press. Dang told us that Chen Chi-sen is an important elder in the independence movement and controls a significant group of DPP supporters. Chen Chi-sen demanded that at least the national territory should be defined as "Taiwan, Penghu, Kinmen, and Matsu." After an hour of arguing, DPP Chairman Yu Shyi-kun agreed that the party should also look at the fundamentalists' proposal.

14. (C) At the DPP forum on constitutional revision on September 24, President Chen proposed a discussion of the territorial issue under the precondition of maintaining the status quo. According to Dang, President Chen was hoping to keep the fundamentalists in line by providing them an opportunity to vent their views. Lo Cheng-fang, deputy director of the constitutional revision team, however, more candidly characterized Chen's move as an attempt to divert attention from his administration's problems. DPP moderate New Tide legislator Hung Chi-chang told AIT bluntly that Chen's efforts were a "misguided" and "mistaken" appeal to independence fundamentalists.

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Looking for a Middle Ground?

15. (C) Responding to instructions from Chairman Yu after the independence fundamentalists raised objections on September 20, party workers have now prepared draft changes to Articles 1-6 to create a full-fledged "Republic of Taiwan" constitution, which could also be submitted to the CEC on October 4. Realizing the extreme sensitivity of the sovereignty issue, the party is also considering more limited modifications to parts of the first six "sovereignty" articles of the constitution in hopes of mollifying the independence fundamentalists who are pushing for more substantial changes.

16. (C) On September 27, Dang showed AIT a new draft revised constitution in which the national name is changed to the "Republic of Taiwan," whose territory is defined as "Taiwan, Penghu, Kinmen, Matsu," and related islands, and which also provides for a change in national flag. The bases for the fundamentalists' demands are a variety of draft constitutions prepared by independence organizations since 1994 plus some language contained in the DPP's party charter. Dang expressed concern that under pressure from the independence fundamentalists the party's CEC may decide on October 4 to send this "Republic of Taiwan" draft (which may end up having presidential and parliamentary versions) along with the two original non-controversial drafts to the DPP LY caucus. To prevent this outcome, which might cause further international friction, Dang said he was hoping to persuade the fundamentalists to withdraw their draft in return for a limited change in Article 4 of the Constitution, deleting "according to its existing national boundaries" from the phrase "The territory of the Republic of China according to its existing national boundaries. . ." (Note: This was the revision that Dang had initially requested our views on, but which we declined to respond to. End Note.)

17. (C) Another proposal under consideration would change "existing boundaries" to "current boundaries," DPP China Department Director Lai I-chung told AIT on September 29. Lai added that there is a "consensus" in the DPP that the

issue of territory has to be addressed. Chen Ming-tong noted that there is also a proposal to eliminate Article 1's reference to Sun Yat-sen's "Three Principles of the People," which prescribes five branches of government, in contrast to the three branches in the proposed revised version. Chao Hung-chang, staffer to Eugene Chao who heads the DPP constitutional revision team, characterized this idea as a "sop" to the independence fundamentalists.

¶8. (C) The DPP will be holding both high-level and working-level meetings to work out the final details before submitting a proposal to the CEC on October 4. DPP Chairman Yu Shyi-kun has called for a meeting of party, government, and legislative leaders on October 2 to work out a compromise on the proposed revisions. Lo stressed that touching the sovereignty-related articles directly would be too controversial to ever gain widespread approval within the LY and would have undesirable international implications. According to Chang Pai-ta, another member of the constitutional revision team, the DPP leadership this week will have to decide between a document that serves "propaganda" purposes and trumpets independence themes versus one that focuses solely on changes to the system of government and has a chance of actually passing in the LY.

Hurdles Ahead

¶9. (C) If the CEC endorses one or more constitutional draft version on October 4, the proposal will probably be forwarded to the DPP LY caucus, where legislators could request (KMT) LY President Wang Jin-pyng to set up a special cross-party committee to review DPP and other constitutional revision

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proposals. However, the opposition Pan-Blue would almost certainly use its legislative majority to block the establishment of such a committee or any other LY consideration of a DPP draft constitution.

¶10. (C) Moreover, any changes to the Constitution require three-fourths of a three-fourths quorum in the LY before they can be put to a national referendum for final approval. While some individual pan-Blue legislators might conceivably be interested in changing to a parliamentary system of government with a larger legislature as a way to save their seats and increase their power, KMT Chairman Ma Ying-jeou, who hopes to become president in 2008, has repeatedly expressed firm opposition against any constitutional revision.

Comment

¶11. (C) The CEC's meeting on October 4 could be a test of strength between independence fundamentalists and moderate reformers within the DPP over constitutional revisions that could touch on sovereignty issues, especially the definition of national territory. In an effort to limit international criticism but also to mollify its independence fundamentalists, the DPP could opt for a very limited change to the wording on territory in Article 4 of the Constitution. Whatever Constitutional changes the DPP proposes, they are highly unlikely to go anywhere in a Pan-Blue-controlled legislature that is focused now on looking for ways to support the effort to get rid of President Chen.

Appendix: AIT Analysis of DPP September 21 Draft Constitutional Revisions

¶12. (C) The DPP draft revised constitution passed to AIT on September 21 leaves the first six articles of the original ROC constitution that deal with sovereignty issues largely untouched, but contains several other revisions that potentially impinge on issues of sovereignty. Putting

forward the constitutional revisions as a full package, moreover, instead of attaching supplemental articles as done previously, also eliminates the language in the preamble to previous amendments that refers to their application "prior to national unification."

¶13. (C) The language on sovereignty in the first six articles of the constitution, which define national polity, sovereignty, citizenry, territory, ethnic relations, and national flag, remains unchanged, but almost all subsequent references to the "Republic of China" are changed to "our nation" (woguo). Articles 25-90 present two versions side by side, one based on a presidential system and the other on a parliamentary system.

¶14. (C) All references to areas and jurisdictions (such as provincial governments, Mongolia, and Tibet) that imply a concept of ROC sovereignty extending beyond Taiwan are removed or significantly changed. These include:

-- Article 26 (National Assembly Representatives), which stipulates that selection of representatives to the NA should have a fixed number from "provinces, Mongolia, Tibet, various minority nationalities in border regions, overseas Chinese, professional and women groups," is replaced by articles on the formation of the government.

-- Article 61 (Legislative Yuan Elections), which stipulates the election of LY members based on proportional representation from "provinces, Mongolia, Tibet, various minorities nationalities in border regions, overseas Chinese, and professional groups," is replaced with language on proportional representation from "counties" and "indigenous peoples" (yuanzhumin).

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-- Article 91 (Selection of Control Yuan Members), which stipulates the selection of CY committee members from "provinces, cities, Mongolia, Tibet, and Overseas Chinese," is completely removed.

-- Article 109 (Provincial Laws), which defines the limits and purview of provincial governments to make and implement certain laws, is replaced with "county and city" level administrative units.

-- Section 11, (Local Government) Articles 113-18, which deal primarily with provincial administration operations, are expunged, as are Articles 119 (on Mongolia) and 120 (on Tibet).

-- Article 169 (Border/Frontier Regions), which says the country must give ample security and aid to the minority peoples on various border regions, is replaced with language that states the country recognizes that "Taiwan's various indigenous peoples are the earliest inhabitants of the Taiwan islands and their 'national rights' predate the existence of the nation." Sub-articles specify the relationship between the "nation" and the "indigenous peoples."

WANG